

IN THE UNITED STATES COURT
OF FEDERAL CLAIMS

BLUE CARE NETWORK OF MICHIGAN,
and BLUE CROSS BLUE SHIELD OF
MICHIGAN MUTUAL INSURANCE
COMPANY,

Plaintiffs,

v.

THE UNITED STATES,

Defendant.

No. 20-1000

(Judge Davis)

JOINT STATUS REPORT

The parties respectfully submit this joint status report to request that the Court continue the stay of the remaining count of plaintiffs' First Amended Complaint (Count III), which concerns plaintiffs' 2018 and later cost-sharing reduction (CSR) claims, for 60 days.

This case is currently stayed because the Government is working with a number of CSR plaintiffs to determine whether they may efficiently resolve this matter without further litigation or at least streamline these cases. *See* Doc. 22 at 1. The parties to a number of these CSR cases, including this one, have also presented joint stipulations for CSR amounts owed by the Government for 2017 and had partial judgment entered thereon. *See* Docs. 29, 32. On January 14, 2022, the Court continued the stay and ordered the parties to file a joint status report or joint stipulation of dismissal on or before March 14, 2022. The parties filed that report (Doc. 30), and subsequent ones thereafter. *See* Docs. 34 (May 12, 2022), 35 (July 12, 2022), 36 (Sept. 9, 2022). By order entered September 13, 2022, the parties are to file their next joint status report by November 8, 2022.

The parties request that the Court continue the stay to provide more time for the broader discussions about possible approaches to resolving this and other CSR cases. As the parties reported before, counsel for a large number of plaintiff health plans shared a proposal with the Government on December 3, 2021. On April 28, 2022, the Government provided its substantive response to the CSR plaintiffs' proposed settlement methodology for CSR damages owed for benefit years 2018 and beyond. The CSR plaintiffs and the Government held a conference call on May 6 to discuss certain aspects of the Government's response and what the next steps should be. Plaintiffs responded on May 23, 2022. Thereafter, the parties have convened by phone multiple times, and the Government produced certain settlement-related data and other information to the plaintiffs on July 22, 2022. The parties participated in a settlement-related call on September 1, 2022, and the CSR Plaintiffs followed that call with a letter to the Government on September 15, 2022. The Government has been reviewing and discussing internally the CSR Plaintiffs' letter. Specifically, the Government has been exploring possible new sources of information and ways to estimate where information does not appear to be available. CSR Plaintiffs expect to receive a response letter from the Government soon, which the parties hope will continue to advance the settlement discussions. Plaintiffs here have expressed a willingness to consider seriously the method, if any, that the Government is able to agree to with the other CSR plaintiffs for resolving or streamlining the CSR cases. The complexity of the CSR cases and the number of interested stakeholders necessitate that the parties be afforded additional time for these efforts.

In addition, the parties here are discussing with each other and may present to the Court, other options to partially or fully resolve the remaining claims. Good cause therefore exists to continue the stay.

Accordingly, the parties jointly request that the Court continue the stay in this case for 60

days, until January 9, 2023, to file the next joint status report in which the parties will update the Court on the status of their efforts to fully resolve this matter.

Respectfully submitted,

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